

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICHAEL C. HOWARD,

Plaintiff,

v.

OFFICER J. JONES, et al.,

Defendants.

CASE NO. C05-2101-JCC-MJB

REPORT AND
RECOMMENDATION

On January 23, 2007, Defendants filed a second motion to dismiss Plaintiff's civil rights action under 42 U.S.C. § 1983 for want of prosecution. (Dkt. #37.) Plaintiff, who is proceeding *pro se*, failed to respond to the motion to dismiss. Thereafter, on February 14, 2007, this Court ordered Plaintiff to show cause within ten days from the date of the Order why the action should not be dismissed. (Dkt. #39). Plaintiff was advised that failure to file a timely response would result in a recommendation of dismissal of this § 1983 action. *Id.* at 1-2. The Order was returned in the mail as undeliverable on February 26, 2007. (Dkt. #42.)

It is well settled that federal trial courts have the inherent authority to dismiss a plaintiff's action with prejudice because of failure to prosecute in order to prevent undue delays in the disposition of pending cases and to avoid congestion in the calendars of the District Courts. *See Link v. Wabash Railroad Co.*, 370 U.S. 626, 629-30, 82 S.Ct. 1386, 8 L.Ed.2d 734 (1962). Federal Rule of Civil Procedure 41 expressly empowers the Court to involuntarily dismiss an

REPORT AND RECOMMENDATION

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1 action “[f]or failure of the plaintiff to prosecute or to comply with [the Federal Rules of Civil
2 Procedure] or any order of the court.” Fed. R. Civ. P. 41(b).

3 Here, although a dismissal on the merits would be appropriate, Plaintiff apparently was
4 unable to respond to the February 2007 show cause order because he has not kept the Court
5 apprised of his current address.¹ Therefore, because mail directed to this *pro se* plaintiff by the
6 clerk has been returned by the Post Office, and Plaintiff has failed to inform the Court of his
7 current address within sixty (60) days from that date, the undersigned recommends dismissal of
8 this action without prejudice for failure to prosecute pursuant to Local Rule CR 41(b)(2). A
9 proposed Order accompanies this Report and Recommendation.

10 DATED this 30th day of April, 2007.

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13 MONICA J. BENTON
14 United States Magistrate Judge
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23 ¹The record reflects that Plaintiff timely responded to a prior Order to Show cause that
24 was issued by the Court on Defendants’ original motion to dismiss for failure to prosecute. *See*
25 Dkt. #25, # 26. In light of Plaintiff’s timely response, the original motion to dismiss was denied.
26 Dkt. #28.